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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,010	05/02/2001	Ioana M. Rizoiu	BI9485P	5692

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EXAMINER	
SHAY, DAVID M	

ART UNIT	PAPER NUMBER
3735	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/848,010	RIZOIU ET AL.	
	Examiner	Art Unit	
	david shay	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *July 20, 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *29,31,48-52 and 55-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29,31,48-52 and 55-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

It is noted at the outset that Claims 29 and 31 contain no deletions or additions relative to the immediately preceding versions thereof. This being the case, the claims should contain no underlining.

Applicant argues that the pending claims all contain a limitation of "a second placement with less moisture than the first" and asserts that neither of the references applied against the claims contains such a step. It appears from applicant's arguments, that applicant is construing the claims more narrowly than they are written. Applicant appears to be arguing that the references, assuming they could be combined, would produce a "first placement" which occurs subsequently to the "second placement" however, the examiner has found no limitation in any of the claims which would require this. But, even assuming there were such a limitation were present in the claims, the examiner still believes that the applied combination would read on such claims. Applicant's argument to the contrary appears to hinge on the belief that if another process (e.g. tooth desensitization) were to occur prior to the bulk removal of Vassiliadis et al, then resulting process would not read on the instant claims. The examiner must respectfully point out that the instant "comprising-type" claims allow any number of steps to occur before between or after the execution of the recited steps. It is further noted, with respect to the performing of the "clean up" process after the rapid removal process, that the person having ordinary skill in the art would understand that any "clean up" process would be preformed at the end of the procedure. Also, if the procedure were as protracted one, it is well within the scope of the person having ordinary skill in the art to re-desensitize the tooth part way through the procedure, thus providing the temporal order, which, although not claimed, is nonetheless argued by applicant.

With respect to applicants various assertions that the Rizoiu et al (WO '928) device would not be used with the device of Vassiliadis et al, these assertions are not well founded. Rizoiu et al (WO '928) specifically discusses the use of the device with conventional dental tissue removal devices in the paragraph bridging pages 47 and 48 thereof.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29, 31, 48-52, and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizoiu et al (WO '928) in combination with Vassiliadis et al. Rizoiu et al (WO '928) provide the teachings set forth above and additionally teach the use of the electromagnetically induced mechanical cutter in conjunction with a variety of conventional tools including lasers and hydrokinetic cutters, wherein the fluid particles are conditioned with e.g. anesthetics (see page 47, line 22 through page 55, line 21). Vassiliadis et al teach that irradiating a tooth at low levels can desensitize the tooth and enable more rapid removal of dentin by conventional laser means (see column 5, line 7-30) and to employ the cutting laser when the water is not being sprayed (see column 6, lines 5-14) and that tissue can be removed bloodlessly. It would have been obvious to the artisan of ordinary skill to employ the laser steps of Vassiliadis wherein tissue is removed quickly by thermal cutting in the method of Rizoiu et al (WO '928), since this would provide rapid tissue removal for a large amount of tissues, while enabling the thermally damaged tissue remaining to be removed by the non-thermal cutting of Rizoiu et al (WO '928), since this would save time and be less stressful on the patient, as taught by Vassiliadis et al or to employ the non thermal cutting steps of Rizoiu et al (WO '928) in the

method of Vassiliadis et al, since this would leave only healthy, viable tissue with a good bonding surface, as taught by Rizoiu et al (WO '928) thus producing a method such as claimed.

Applicant's arguments filed July 20, 2006 have been fully considered but they are not persuasive. The arguments are not convincing for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II, can be reached on Monday, Tuesday, Wednesday, Thursday, and Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330